



Department of Ecology
Water Quality Program

AUG 17 2005

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August 15, 2005

Mr. Bill Moore
Washington Department of Ecology
Water Quality Program
PO Box 47600
Olympia, WA 98504-7600

RE: City of Bremerton – Comments to First Preliminary Draft – Phase II Municipal Stormwater Permit

Dear Mr. Moore:

The City of Bremerton has reviewed the Preliminary Draft Phase II – Municipal Stormwater Permit dated May 16, 2005. We appreciate the challenges faced by the Department of Ecology in implementing this complex permit and support the efforts of the Department in protecting the State's water resource. The City of Bremerton has spent over \$40 million in recent years on storm and sanitary sewer improvements, which have helped lead to the re-opening of shellfish harvesting in Dyes Inlet.

However, we have numerous and significant concerns with the draft permit. Although Bremerton has already begun implementing many of the provisions of the Phase II program, compliance with this permit will be difficult and costly. Furthermore, we estimate the cost of implementing the program as outlined in the draft permit is approximately triple that of implementing the federal program, as provided for in our Notice of Intent.

We have outlined below our general comments to several of the primary components of the permit, including concerns with the overall specificity of the permit, the requirement to adopt the Stormwater Management Manual for Western Washington, and the monitoring requirements. Following those general comments, we have provided numerous comments to specific permit requirements.

GENERAL COMMENTS

Overall Level of Specificity in the Permit

Many of the permit requirements are far too detailed and specific, and we believe that the Department is intending to issue a permit that far exceeds what is needed to either meet the federal requirements or protect water quality. The requirements are very resource intensive. Requirements that are too specific will inhibit innovative, cost-effective compliance solutions. We are also concerned that we will need to make unnecessary (and in some cases, costly) modifications to our existing Stormwater programs simply because we are not meeting every single detail included in the permit.

Examples of selected permit language that is too specific include the following:

- Should a regional monitoring program be established, permittees *shall form a committee and must meet a minimum of 6 times per year.*
- *100%* of the public must be reached about disposal of toxic materials and illicit discharges.
- Public outreach *must include a multimedia approach.*

There are many other examples throughout the permit.

Requirement to Adopt the Stormwater Management Manual for Western Washington

The permit does not appear to explicitly require that local jurisdictions adopt the Stormwater Management Manual for Western Washington (the Manual), but it will be impractical to comply with the permit without doing so. To our knowledge, it has not been demonstrated this level of control is necessary to meet MEP. In addition, we have significant concerns with the high cost of implementing the Manual, particularly in the highly urbanized sections of the City of Bremerton. In particular, defining the runoff control “pre-developed condition” as forested land cover is extraordinarily costly. The post-1985 40% urbanized exemption is impractical and vague in a highly modified and urbanized area such as Bremerton.

In addition, there is a fundamental disconnect between the project size threshold (1 acre) in the permit versus the design thresholds (2,000 square feet) contained in Appendix 1 of the permit and the Manual. For example, under the proposed permit, a half-acre lot adding 10,000 square feet of new impervious surface would not have to provide runoff control, whereas a 1 acre lot adding 2,000 square feet of impervious surface would have to provide these controls.

Monitoring

The federal program does not include water quality monitoring of storm outfalls or receiving waters. The City of Bremerton is concerned that this monitoring is a central element of the proposed permit. We believe that implementing the other requirements of the permit will adequately meet the intent of the federal program. If the Department feels compelled to require water quality monitoring, it should be limited to that required through separate existing TMDL processes or as needed for conducting illicit connection elimination.

Providing the resources to perform the monitoring as outlined in the draft permit will be overwhelming. Since we are better equipped and experienced in monitoring than most Phase II communities of comparable size, we believe that most other Phase II communities will find the proposed monitoring requirement even more daunting and will need to rely on others, such as local health districts, consultants, etc. to plan for and perform this monitoring.

Our general concerns with the monitoring provisions of the draft permit are as follows. We have also provided more specific comments to the monitoring provisions in the “Specific Comments” section of this letter.

- The monitoring requirements in the draft permit are vague. There are no specifics as to parameters to be monitored. The “adaptive management” approach requires permittees to undertake what is essentially a research program. This is technically and financially beyond the means of most Phase II jurisdictions, even if done on a collaborative basis with other jurisdictions.
- The state already has a receiving water monitoring and management program through the state’s 303(d) List and TMDLs. Assessing receiving water quality is too complex and comprehensive a mandate to delegate to the Phase II permittees. Under current practice, if a water body has water quality concerns, it is placed on the 303(d) list and a TMDL is implemented with the involvement of all relevant stakeholders.
- The Navy’s extensive ENVVEST project has gathered the water quality information needed. Additional monitoring by Kitsap County Phase II entities on Sinclair and Dyes Inlets is not needed. ENVVEST is a multi-million dollar project and is in the process of developing a sophisticated fate and transport model that will be able to predict the potential impact of MS4s on the Sinclair and Dyes Inlets. The model is being developed for project ENVVEST by the US Army Corp of Engineers using the HSPF/WASP/CH3D platforms. It has been calibrated for flow by using field data collected over a wide range of dry weather and storm events in a team effort with area stakeholders. Water quality data has been collected from stormwater and stream systems in Kitsap County and the City of Bremerton along with water quantity from targeted storm events.
- The State has already started the TMDL process for Sinclair and Dyes Inlet. Any specific monitoring needs should come from that process.
- Due to the complexity of tides and other inputs into marine waters, determining the causation of receiving water quality is beyond the means of a Phase II community. Receiving water sampling in the Bremerton area is influenced by major tidal action. There are many other inputs in addition to a community’s stormwater into receiving waters such as local streams, marinas and boat traffic, wastewater treatment plants, failing septic systems, industrial sources, AND stormwater from other MS4s, etc. Without an organized, highly technical monitoring program and model, the determination of stormwater impact would not be able to be discerned. This coordination, review, and interpretation is best managed by State agencies, and is inappropriate to delegate to the Phase II communities.
- Discharge monitoring is very difficult to conduct in a manner that will result in defensible data. Bremerton’s experience with combined sewer overflow water quality monitoring has demonstrated that the type of water quality monitoring proposed in the Phase II permit is extraordinarily complex. Bremerton has at least 60 stormwater outfalls. Because of the intermittent and unpredictable nature of stormwater runoff, it is difficult to collect representative samples while meeting approved holding times and preservation methods. For example, fecal coliform grab samples require a 6-hour holding time from time of sample to the time of analysis at the lab. This means that a technician must be at the outfall at the time the discharge is occurring to collect a meaningful sample – a

near impossibility. An elaborate automatic monitoring system with samplers connected to flow meters would need to be used for other parameters. These monitoring setups are labor-intensive to ensure they will operate as needed during a storm event.

Receiving water monitoring is very difficult to conduct in a manner that will result in meaningful data. Bremerton's stormwater discharges to at least four different receiving waters. Bremerton's ambient monitoring conducted for its combined sewer overflow program for several years shows very few detections of metals or fecal coliform above the acute WQS. Even if a parameter is detected, how can it be linked to stormwater discharges? There is runoff not associated with Bremerton's MS4 that also impacts receiving water. It would be nearly impossible to find a correlation. Again, the TMDL program is a more appropriate way to evaluate receiving waters.

The type of water quality monitoring necessary to provide accurate and meaningful data would be beyond the reasonable financial capability of Phase II permittees. To use the Navy's ENVVEST project as an example, it is costing millions of dollars to gather, analyze, evaluate, and model the water quality in Sinclair and Dyes Inlets and stream tributaries. To expect each small Phase II community to provide this level of data is unreasonable. To provide anything less would result in scientifically-indefensible data. Any permit-required receiving water monitoring should be conducted within the context of a TMDL.

Rather than expending limited funding on extensive water quality monitoring, Phase II permit activities should focus on other performance measures that have a direct benefit to water quality such as compliance inspections, public education, and illicit discharge elimination.

SPECIFIC COMMENTS

Page 1 Line 23 – The word “municipal” is confusing in this context, and should be deleted.

Page 1 Line 31- Bremerton has both combined and separate sewer systems. The City has 10 major stormwater outfalls that also serve a combined sewer. Combined sewers are not regulated as an MS4 under this permit. However, under the provisions of S1.A.1, the permit is meant to cover the entire incorporated area of the city. Is it the Department's intent to exclude those drainage areas that contribute to combined outfalls? Or rather, is it expected that we would take an approach that essentially “ignores” the combined sewer component? This question is particularly relevant with respect to monitoring.

Page 1 Line 39 – The term “very discrete areas” is vague and subject to varying interpretations. This section should be combined with S1.B.3.

Page 2 Line 11 – Additional definition regarding what constitutes other regulated MS4s is required. Are publicly-owned school districts, libraries, and similar entities regulated? For universities, are satellite locations, such as branches, off-site classrooms, administrative offices, etc. regulated? However these “secondary” permittees are defined, we are very concerned

with the amount of administration and coordination with them that will be expected of “primary” permittees.

Page 3 Line 7 – Portions of Bremerton’s MS4 are shared with a federal military installation or the Washington State Department of Transportation, and in some cases, the outfalls are situated within the installation, or are under the control of WSDOT. While we recognize that military bases are exempt from these permit requirements, we are concerned that several permit provisions, particularly monitoring requirements, will be difficult to comply with for those portions of the MS4 outside of our direct control.

Page 4, Line 1 – Many permittees will elect to team with neighboring permittees to jointly comply with one or more permit requirements at a later date, during the implementation phase of the permit. It would be burdensome to require those permittees to resubmit an NOI. A simple administrative notification to the Department should be allowed in those instances.

Page 5, Line 29 – It seems unlikely that firefighting wastewater would ever be identified as a significant source of pollutants. Further, it’s difficult to envision a practical means of addressing the issue. This section should be deleted.

Page 7 Line 31, Page 8 Line 3 This permit does not allow violating the state’s water quality standards under WAC 173-201A. Can it be assumed that is not the Department’s intent to require that standards be met at each MS4 outfall? Which water quality standards apply? The permit states that compliance with the MEP requirement is met if the requirements of the permit are met. Is it also presumed that the water quality standards under WAC 173-201A are also met?

Page 8, Line 12 – It appears to be the Department’s intent to require that Phase II jurisdictions adopt the Manual. See general comments above.

Page 8, Line 15 – The compound sentence beginning with “From the effective date....” should be simplified.

Page 9, Line 5 – This requirement is far too open-ended. Allowing the Department to modify the permit based on unknown future circumstances removes all ability for permittees to plan and budget for compliance during the permit term.

Page 9, Line 27 - Is the monitoring program to be submitted for Department approval?

Page 9, Line 29 – The concept of providing “feedback for adaptive management” seems synonymous with “conducting research,” which is an inappropriate expectation of a permittee under any environmental program, and the inherent liability associated with a permit.

Page 9, Line 37 – This is a fractured sentence. What is the Department’s expectation with respect to “beneficial uses”?

Page 10, Line 3 – BMP effectiveness monitoring is an unreasonable expectation of individual permittees. If there is not ample technical literature with respect to the performance of

stormwater BMPs, then any necessary research should be conducted within the context of a State-managed program, not as a permit requirement.

Page 11 Line 22 – In response to the Department's request for comment on the organization of the permit, we suggest following the "six minimum measure" format, even more closely than is done by the draft permit. Monitoring should be moved to a more appropriate place within the 6 measures. Secondary permittees should have their requirements included along with permittees, rather than in a separate section, to avoid confusion. General conditions should appear in advance of Special Conditions. The glossary should appear at the front of the permit. The concept of Appendices should be discarded, and any content within the appendices that is relevant should appear within the general or special conditions. Section S5 should be moved to the appropriate sections of S7 to avoid redundancy or conflict.

Page 11 Line 28 – The section reference appears to be an error - there is no D1 – 6 but there is C1 – 5.

Page 12 Line 10 – The concept of an "ongoing program" in this context is too vague and general.

Page 12 Line 20 – Please clarify/recast the sentence beginning with "Notwithstanding the schedules...".

Page 12, Line 28 – Much of this section is too specific. Permittees should have more flexibility on the education program, process, format, and target audience. Bremerton and other communities will require as much assistance as possible from the Department in this area, and we request that boilerplate public education materials that can be tailored to local needs, and public education training, be provided by the state.

Page 13 Line 26 - This sets unrealistic goals. The previous sections list required audiences (including "the public" and "others") and public education topics. Line 26 requires reaching "100%" of these target audiences. It is impossible to know who all these people are. It is also difficult to measure if they have been "reached". What is the definition of "reach"? If information is on a website which is accessible to everyone through the library, has the audience then been "reached", or, do we have to document that a person actually obtained the information? If they obtained it, how do we know they read it? How do we know they understand it or are doing what is asked? Making good faith efforts to ensure information available to target audiences can be documented and measured. The Department needs to be sure that what is required of Phase II communities for public information is practical, beneficial, and measurable.

Page 13, Line 28 – We recognize that the Department is compelled to provide for strong public participation provisions. It is our assumption that providing standard local notice of City Council actions adopting and implementing elements of the program are sufficient. Does the Department have a higher expectation? In any case, requiring that the SWMP and all submittals be posted on the permittee's website is unnecessary and unrealistic. Do all potential permittees, including secondary permittees, even have a website?

Page 14, Line 25, 31 – The intent of mapping “all known and new connections” is unclear, and potentially very costly. Every tax parcel in the City discharges in some fashion to the MS4. Requiring that mapping conform with Ecology’s GIS standards seems unnecessary and burdensome for smaller communities.

Page 15 Line 23 - What is “hyperchlorinated” water? If this water is dechlorinated why is discharge to a MS4 not allowed?

Page 16 Line 12 - Bremerton has had an inappropriate connection detection program for about 7 years, which is based on EPA guidance. We are concerned about the need to potentially revamp this program to conform with Ecology’s draft guidance manual. How is it determined what constitutes an “equivalent methodology”?

Page 16 Line 39 –This permit requirement, and numerous others throughout the permit, require staff training such that personnel are “qualified”, and/or requires the training to be “adequate”. How are the terms “qualified” and “adequate” defined? Will the Department be making this training available? Will certification programs be established? The topics are such that training is not available through traditional sources.

Page 17, Line 21 – One year does not provide enough time to implement an ordinance for controlling runoff (or to implement other elements of the permit) particularly if the jurisdiction is planning to prepare a new stormwater manual. The compliance deadline should be at least three years after the effective date of the permit. Also, it would be helpful if model ordinances were made available to provide guidance to local jurisdictions.

Page 17, Line 34 – This section conflicts with the requirements contained on Page 8, Line 31 regarding which entity has the burden of proof in determining whether or not applicable water quality requirements are being met. In one section, project proponents have the burden of proof. In the other section, the responsibility lies with the local jurisdiction.

Page 18, Line 10 – If permittees are required to allow LID techniques, are they also required to examine these techniques as part of the BMP effectiveness monitoring program?

Page 18, Line 15 – “Qualified personnel” are defined as having “professional” training. How is that defined?

Page 19, Line 27 – The intent of who is responsible for annual inspection is unclear – the municipality or the property owner?

Page 19 Line 35 – The intent of this requirement is difficult to understand, particularly with respect to a 6-month inspection schedule. The inspection appears to be related to ensuring that erosion and sediment control practices are properly implemented during construction, yet it appears in the O&M section of the permit.

Page 28, Line 29 – Tracking and reporting program expenditures is an unnecessary administrative task. The only conceivable use of this data would appear to be to allow the

Department to reduce the scope of the program in the future if the data demonstrates excessive implementation costs. This seems unlikely.

Page 33, Line 18 – See comments to Page 9, Line 5 above.

Page 38, Line 1 – It's unclear how the definition of "New Stormwater Outfall" is used in the permit, but it seems inappropriate to consider any increase in size or flowrate to constitute a "new" outfall. Note that something as simple as replacing a corrugated metal pipe with a plastic pipe of the same diameter increases the flowrate.

Page 38, Line 33 – A definition of "Receiving Waters" should be added, given the significance of that term throughout the permit.

Appendices 4 and 5 – These appendices seem out of place and overly specific for inclusion in the permit.

The City of Bremerton appreciates the opportunity to provide these comments. If you have any questions, please call Managing Engineer Luke Korpi or my staff at 360-473-5342

Sincerely,

A handwritten signature in black ink, appearing to read 'Cary Bozeman', followed by a long horizontal line extending to the right.

Cary Bozeman
Mayor

cc:

Phil Williams, Director, Public Works & Utilities Department

Luke Korpi, Managing Engineer, Public Works & Utilities Department